

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.612 OF 2005
IN
SUIT NO.1377 OF 2004

Sadanand R. Shetty Plaintiff

versus

Kishinchan V. Khemani & ors. Defendants

Mr.P.R.Kadam for plaintiff.

Ms.Dipti Gandhi for defendant no.1.

Mr.M.M.Vaidya for D-6.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 10th April 2006

PC :

1. Chamber Summons is served on all the parties including defendant no.5. None appears for defendant no.5 although name of advocate for defendant no.5 is shown on board.

2. All other defendants appearing before me through their advocates are supporting this Chamber Summons. Even otherwise, from a reading of the plaint it is apparent that the plaintiff is seeking a declaration of his right, title and

interest in an immovable property, which is in possession of defendant no.5. Therefore, through inadvertence, consequential prayer for possession has not been made. The explanation is given in the affidavit in support. No prejudice will be caused to the defendants if a consequential amendment is allowed. Neither cause of action nor the structure of the suit is being altered. Chamber Summons is, therefore, made absolute in terms of prayer clauses (a) and (b). Amendment to be carried out within two weeks. Amended plaint to be served within a period of four weeks thereafter. No order as to costs.

(S.C.DHARMADHIKARI, J.)